# COUNCIL REGULATION (EC) No 2238/94

## of 14 September 1994

## amending Regulation (EC) No 3359/93 in so far as it imposes an anti-dumping duty on imports of ferro-silicon originanting in Brazil and produced by the Brazilian company Rima Electrometalurgia SA

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1),

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee as provided for under the above Regulation,

Whereas :

(1) By Article 1 (3) of Regulation (EEC) No 1115/91 (2), the Council imposed a definitive anti-dumping duty of 12,2 % on imports of ferro-silicon falling within CN codes 7202 21 10, 7202 21 90 and ex 7202 29 00 originating in Brazil and manufactured and exported direct to the Community by the Brazilian company Rima Electrometalurgia SA, Belo Horizonte, Brazil (hereinafter referred to as 'Rima').

(2) Article 1 (3) of Regulation (EEC) No 1115/91 was declared void by the judgment of the Court of Justice of 7 December 1993 in Case C-216/91 following an application for annulment presented by Rima.

(3) By a notice published on 6 May 1992 (3), the Commission after consultation within the Advisory Committee, and in accordance with Article 14 of Regulation (EEC) No 2423/88, initiated a review of *inter alia* Regulation (EEC) No 1115/91.

(4) As a result of this review, the Council, by Regulation (EC) No 3359/93 (4), imposed an amended anti-dumping duty of 20,5 % on imports of ferro-silicon originating in Brazil and produced by Rima.

(5) Rima has requested that this amended duty be repealed pursuant to Article 176 of the EC Treaty which requires an institution whose act has been declared void by the Court to take the necessary measures to comply with the judgment of the Court.

(6) The Commission has examined the implications of the judgment for the presently applicable duty and has established that the situation of Rima has not changed in any relevant manner from that prevailing at the time of the first review and which led the Court to declare that the duty on Rima should be annulled. As a consequence of the annulment of the duty, Rima was not subject to any anti-dumping duty at the time the review was opened.

(7) The Council is therefore of the opinion that Rima should not be subject to any duty higher than the one imposed before the first review as, given that it did not export to the Community during the investigation period for the second review, it had no reason to believe that circumstances concerning Rima had changed during the second review. The anti-dumping duty of 20,5 % imposed on Rima by Regulation (EC) No 3359/93 should therefore be repealed with effect from the date that Regulation entered into force.

(8) Since this Regulation does not modify or confirm the measures contained in Regulation (EC) No 3359/93 within the meaning of Article 15 (1) of Regulation (EEC) No 2423/88, the date on which they were due to expire pursuant to that provision remains unchanged,

HAS ADOPTED THIS REGULATION :

*Article 1*

The anti-dumping duty of 20,5 % imposed by Article 1 (2) of Regulation (EC) No 3359/93 on imports of ferro-silicon originating in Brazil and produced by Cia Rima Electrometalurgia SA, Belo Horizonte, Brazil is hereby repealed.

*Article 2*

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

It shall apply with effect from 10 December 1993.

(1) OJ No L 209, 2. 8. 1988, p. 1. Regulation as last amended by Regulation (EC) No 522/94 (OJ No L 66, 10. 3. 1994, p. 10).
(2) OJ No L 111, 3. 5. 1991, p. 1.
(3) OJ No C 115, 6. 5. 1992, p. 2.
(4) OJ No L 302, 9. 12. 1993, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 September 1994.

*For the Council*

*The President*

Th. WAIGEL